IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 6592 of 1999

Between:

M.Jayarama Reddy s/o.Ramalinga Reddy
R/o.Pandyalamadugu,Ramakuppam Mandal Chittoor district.

..... PETITIONER

AND

1 The Special Commissioner Land Revenue, A.P. Hyderabad.
2 The Joint Collector, Chittoor
3 The Mandal Revenue Officer, Ramakuppam Mandal Chittoor Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of the Writ of Mandamus declaring the proceedings of the 1st respondent dated 20-10-1998 made in BCW/111/97 as illegal, unjust, arbitrary, contrary to law and accordingly set aside the same and to pass such other and further orders that may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.V.MUNI REDDY

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following :

ORDER:

The petitioner herein is a resident of Pandyalamadugu village in Ramakuppam Mandal of Chittoor District. He claims to be a landless poor person. He was in possession of land admeasuring Acs.1.66 in Survey No.276/2 of said village allegedly for a long time. Considering his application, the land was assigned to him by proceedings dated 26.07.1992. However, by proceedings dated 23.11.1996, the Joint Collector cancelled the assignment. Such cancellation was preceded by a show cause notice. Be that as it is, aggrieved by the cancellation of assignment, the petitioner preferred an appeal before the first respondent, who by orders dated 20.10.1998 rejected the appeal. The order of the first respondent is challenged in the writ petition.

On behalf of all the respondents, Mandal Revenue Officer filed a counter affidavit. It is stated that villagers of Pandyalamadugu submitted a representation to the District Collector for house site pattas in respect of the land in Survey No.276/2 admeasuring Acs.1.66. The Collector called for a report from the Mandal Revenue Officer. A report was submitted stating that the assignment made to the petitioner in the year 1992 as a mistake of fact, as the petitioner was in possession of dry land admeasuring Acs.10-90 and wet land admeasuring Acs.0-79 and that the petitioner is a wealthy person. It is also alleged that the petitioner obtained assignment by suppressing the facts. When a report was submitted by the Revenue Divisional Officer to the District Collector requesting to exercise power under Paragraph 18 of BSO 15, the Joint Collector issued a show cause notice on 30.09.1995. The petitioner submitted explanation stating that the petitioner's father has got five children that the lands in the name of the petitioner are joint family properties and that on notional partition, the petitioner would be entitled to one-fifth share and therefore he is a landless poor person. Then, the Joint Collector considered the explanation and cancelled the patta by proceedings dated 08.12.1994 ordering resumption of the land to the Government. Questioning the same, the petitioner preferred an appeal before the Special Commissioner for Land Revenue, who by impugned order dismissed the appeal. The learned counsel for respondents have filed necessary documents including necessary adangals, which would show that the petitioner owns more than Acs.11.00 of land in various Survey Numbers of Pandyalamadugu village.

The learned counsel for the petitioner, Sri S.V.Muni Reddy submits that action was

initiated for resumption of the land for providing house sites to Sugalies and therefore having regard to judgment of Full Bench of this Court in **LAO-cum-RDO, Chevella Division v M.Pandu**, a direction may be issued to the respondents to pay the compensation to the petitioner. The learned Assistant Government Pleader refused this contention.

The submission that the land was resumed for providing house sites and for that reason, the petitioner should be paid compensation cannot be accepted. The Revenue Divisional Officer sent a representation bringing to the notice of the Collector/Joint Collector about misrepresentation made by the petitioner alleging that the petitioner obtained assignment suppressing the facts that he owns more than Acs.5.00 of land. In the absence of any denial that the petitioner owns such land and is also a wealthy person, the Joint Collector had justification in canceling the assignment. As per BSO 15 (4), Government land can be assigned to a person, who is poor and landless. In this case, both these are not satisfied. If incidentally the land resumed after cancelling assignment is to be used for providing house sites, it does not mean that the respondents have resumed the land for public purpose. The respondents decided to resume the land after cancelling the assignment as initially cancellation was obtained by misrepresentation. In that view of the matter, I do not see any infirmity in the orders passed by the respondent and this writ petition is devoid of any merits. The decision of the Full Bench of Seven learned Judges of this Court in **LAO-cum-RDO, Chevella Division v M.Pandu** (supra) has no application to the facts of this case.

The writ petition, for the above reasons, is accordingly dismissed without any order as to costs.

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(V.V.S.RAO,J)

22.07.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Special Commissioner, Land Revenue, Andhra Pradesh, Hyderabad.
2. The Joint Collector, Chittoor.
3. The Mandal Revenue Officer, Ramakuppam Mandal, Chittoor District.
4. 2CCs to the G.P. for Revenue (Assignment), High Court Buildings, Hyderabad.
5. 2CD copies